



State of Wisconsin
2005 - 2006 LEGISLATURE

GRACBTKBTK!
LRB-1209/P1
MES

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

x-refs ✓

D-NOTE

inserts

WANTED
Fri 1 PM

CS

gm

- 1 AN ACT ... relating to: creating a local airport district and authorizing the
2 creation of local airport districts. ✓

Analysis by the Legislative Reference Bureau

use anal:prelim → To be provided in a future version of the draft
FE-SL ; TAXEXM

reverse order of the tags — FE-SL comes last.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 16.70 (14) of the statutes is amended to read:
4 16.70 (14) "State" does not include a district created under subch. II, III, IV, or
5 V, or VI of ch. 229. ✓

History: 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189; 1993 a. 263, 399; 1995 a. 27, 56; 1997 a. 27; 1999 a. 65, 167; 2001 a. 16, 38; 2003 a. 33.

- 6 SECTION 2. 24.61 (2) (a) 10. of the statutes is created to read:
7 24.61 (2) (a) 10. Bonds issued by a local airport district under subch. VI of ch.
8 229. ✓

****NOTE: Is this consistent with your intent? See s. 24.61 (2) (a) 7. to 9. ✓

- 9 SECTION 3. 25.17 (3) (b) 13. of the statutes is created to read:

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JTK

25.17 (3) (b) 13. Bonds issued by a local airport district under subch. VI of ch.

229.

****NOTE: Is this consistent with your intent? See s. 25.17 (3) (b) 10. to 12.

SECTION 4. 25.50 (1) (d) of the statutes is amended to read:

25.50 (1) (d) "Local government" means any county, town, village, city, power district, sewerage district, drainage district, town sanitary district, public inland lake protection and rehabilitation district, local professional baseball park district created under subch. III of ch. 229, family care district under s. 46.2895, local professional football stadium district created under subch. IV of ch. 229, local cultural arts district created under subch. V of ch. 229, local airport district created under subch. VI of ch. 229, public library system, school district or technical college district in this state, any commission, committee, board or officer of any governmental subdivision of this state, any court of this state, other than the court of appeals or the supreme court, or any authority created under s. 231.02, 233.02 or 234.02.

History: 1975 c. 164; 1977 c. 29, 187; 1979 c. 34 s. 2102 (46) (a); 1979 c. 175 s. 53; 1981 c. 20, 93; 1983 a. 27 s. 2202 (45), (49); 1985 a. 29 s. 3202 (46); 1987 a. 27; 1989 a. 31, 159, 336; 1991 a. 33, 39; 1993 a. 16, 399; 1995 a. 27, 56, 274; 1999 a. 9, 65, 83, 167; 2001 a. 38; 2005 a. 25.

SECTION 5. 32.02 (11) of the statutes is amended to read:

32.02 (11) Any housing authority created under ss. 66.1201 to 66.1211; redevelopment authority created under s. 66.1333 community development authority created under s. 66.1335; local cultural arts district created under subch. V of ch. 229, subject to s. 229.844 (4) (c); local airport district created under subch. VI of ch. 229; or local exposition district created under subch. II of ch. 229.

History: 1971 c. 100 s. 23; 1973 c. 243, 305; 1975 c. 68, 311; 1977 c. 29, 203, 438, 440; 1979 c. 34 s. 2102 (52) (b); 1979 c. 122; 1979 c. 175 s. 53; 1981 c. 86, 346, 374; 1983 a. 27; 1985 a. 29 s. 3200 (51); 1985 a. 30 s. 42; 1985 a. 187; 1985 a. 297 s. 76; 1987 a. 27; 1989 a. 31; 1993 a. 246, 263; 1993 a. 491 s. 284; 1995 a. 27 s. 9126 (19); 1995 a. 201; 1997 a. 204; 1999 a. 65; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 30 s. 108.

SECTION 6. 59.69 (4g) of the statutes is amended to read:

860

1 59.69 (4g) AIRPORT AREAS. In a county which has created a county zoning
2 agency under sub. (2) (a), the county's development plan shall include the location
3 of any part of an airport, as defined in s. 62.23 (6) (am) 1. a. or s. 229.86(1), that is
4 located in the county and of any part of an airport affected area, as defined in s. 62.23
5 (6) (am) 1. b., that is located in the county.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26.

6 **SECTION 7.** 60.61 (2) (e) of the statutes is amended to read:

7 60.61 (2) (e) Adopt an official map showing areas, outside the limits of villages
8 and cities, suited to carry out the purposes of this section. Any map adopted under
9 this paragraph shall show the location of any part of an airport, as defined in s. 62.23
10 (6) (am) 1. a. or 229.86(1), located in the town and of any part of an airport affected
11 area, as defined in s. 62.23 (6) (am) 1. b., located in the town.

History: 1983 a. 532, 538; 1985 a. 136, 316; 1991 a. 255; 1993 a. 246, 301, 400, 414, 491; 1995 a. 27 s. 9130 (4); 1995 a. 201; 1997 a. 3.; 2001 a. 50; 2005 a. 26.

12 **SECTION 8.** 62.23 (6) (am) 1. a. of the statutes is amended to read:

13 860 62.23 (6) (am) 1. a. "Airport" means an airport as defined under s. 114.002 (7)
14 which is owned or operated by a county, city, village or town either singly or jointly
15 with one or more counties, cities, villages or towns, or an airport as defined in s.
16 229.86(1) which is owned or operated by a district, as defined in s. 229.86(5). 860

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34.

17 **SECTION 9.** 66.0301 (1) (a) of the statutes is amended to read:

18 66.0301 (1) (a) In this section "municipality" means the state or any
19 department or agency thereof, or any city, village, town, county, school district, public
20 library system, public inland lake protection and rehabilitation district, sanitary
21 district, farm drainage district, metropolitan sewerage district, sewer utility district,
22 solid waste management system created under s. 59.70 (2), local exposition district
23 created under subch. II of ch. 229, local professional baseball park district created

1 under subch. III of ch. 229, local professional football stadium district created under
2 subch. IV of ch. 229, a local cultural arts district created under subch. V of ch. 229,
3 local airport district created under subch. VI of ch. 229, family care district under s.
4 46.2895, water utility district, mosquito control district, municipal electric company,
5 county or city transit commission, commission created by contract under this section,
6 taxation district, regional planning commission, or city–county health department.

History: 1999 a. 150 ss. 348, 349, 352, 353; 1999 a. 167 s. 38; 2001 a. 16, 30. ⁴

7 **SECTION 10.** 66.0603 (1m) (a) 3r. of the statutes is created to read:

8 66.0603 (1m) (a) 3r. Bonds issued by a local airport district created under
9 subch. VI of ch. 229.

***NOTE: Is this consistent with your intent? See s. 66.0603 (1m) (a) 3m. to 3q and
3t.

10 **SECTION 11.** 66.0621 (1) (a) of the statutes is amended to read:

11 66.0621 (1) (a) “Municipality” means a city, village, town, county, commission
12 created by contract under s. 66.0301, public inland lake protection and rehabilitation
13 district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district
14 created under ss. 200.01 to 200.15 and 200.21 to 200.65, town sanitary district under
15 subch. IX of ch. 60, a local professional baseball park district created under subch.
16 III of ch. 229, a local professional football stadium district created under subch. IV
17 of ch. 229, a local cultural arts district created under subch. V of ch. 229, a local
18 airport district created under subch VI of ch. 229, or a municipal water district or
19 power district under ch. 198 and any other public or quasi–public corporation, officer,
20 board or other public body empowered to borrow money and issue obligations to
21 repay the money and obligations out of revenues. “Municipality” does not include the
22 state or a local exposition district created under subch. II of ch. 229.

History: 1973 c. 172; 1979 c. 268; 1981 c. 282; 1983 a. 24; 1983 a. 207 ss. 9 to 21, 93 (1), (3); 1987 a. 197; 1991 a. 316; 1993 a. 263; 1995 a. 56, 216, 225, 378; 1997 a. 35; 1999 a. 65; 1999 a. 150 ss. 175, 177; Stats. 1999 s. 66.0621; 1999 a. 167 ss. 33 to 36; 1999 a. 186 s. 45; 2001 a. 30, 105.

23 **SECTION 12.** 66.0621 (1) (b) of the statutes is amended to read:

1 66.0621 (1) (b) “Public utility” means any revenue producing facility or
2 enterprise owned by a municipality and operated for a public purpose as defined in
3 s. 67.04 (1) (b) including garbage incinerators, toll bridges, swimming pools, tennis
4 courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting,
5 city halls, village halls, town halls, courthouses, jails, schools, cooperative
6 educational service agencies, hospitals, homes for the aged or indigent, child care
7 centers, as defined in s. 231.01 (3c), regional projects, waste collection and disposal
8 operations, sewerage systems, local professional baseball park facilities, airport
9 facilities, as defined in s. 229.86(2), and any other necessary public works projects
10 undertaken by a municipality. 860

History: 1973 c. 172; 1979 c. 268; 1981 c. 282; 1983 a. 24; 1983 a. 207 ss. 9 to 21, 93 (1), (3); 1987 a. 197; 1991 a. 316; 1993 a. 263; 1995 a. 56, 216, 225, 378; 1997 a. 35; 1999 a. 65; 1999 a. 150 ss. 175, 177; Stats. 1999 s. 66.0621; 1999 a. 167 ss. 33 to 36; 1999 a. 186 s. 45; 2001 a. 30, 105.

11 **SECTION 13.** 66.0621 (6) (d) of the statutes is created to read:

12 66.0621 (6) (d) Revenue bonds issued by a local airport district created under
13 subch. VI of ch. 229 are subject to the provisions in ss. 229.866 to 229.868. ✓

14 **SECTION 14.** 66.1009 (intro.) of the statutes is amended to read:

15 **66.1009 Agreement to establish an airport affected area.** (intro.) Any
16 county, town, city or village may establish by written agreement with an airport, as
17 defined in s. 62.23 (6) (am) 1. a. or 229.86(1): 860

History: 1985 a. 136; 1995 a. 201; 1999 a. 150 s. 365; Stats. 1999 s. 66.1009.

18 **SECTION 15.** 66.1009 (2) of the statutes is amended to read:

19 66.1009 (2) Any requirement related to permitting land use in an airport
20 affected area, as defined in s. 62.23 (6) (am) 1. b., which does not conform to the zoning
21 plan or map under s. 59.69 (4g), 60.61 (2) (e) or 62.23 (6) (am) 2. A city, village, town
22 or county may enact such requirement by ordinance. A district, as defined in s.
23 229.86(5), may not exercise any zoning authority outside of the district's jurisdiction. 860

History: 1985 a. 136; 1995 a. 201; 1999 a. 150 s. 365; Stats. 1999 s. 66.1009.

****NOTE: The amendment of this subsection is based on your instruction in s. xxx.06 (2), on page 9 of your instructions, but doesn't it conflict with the authority that you want the district to exercise under s. 114.136?

INS Joe's Insert

SECTION 16. 219.09 (1) (g) of the statutes is created to read:

219.09 (1) (g) Bonds issued by a local airport district under subch. VI of ch. 229.

****NOTE: Is this consistent with your intent? See s. 219.09 (1) (a) to (f).

SECTION 17. Subchapter VI of chapter 229 [precedes 229.86] of the statutes is created to read:

CHAPTER 229

SUBCHAPTER VI

LOCAL AIRPORT DISTRICTS

229.86 Definitions. In this subchapter:

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport facilities" means all district property, tangible or intangible, owned in whole or in part, operated, or leased by a district that is principally related to facilities used, available for use, or designed for use, for or by any of the following:

- (a) The navigation, landing, or take-off of aircraft.
- (b) The safety, security, storage, maintenance, servicing, or repair of aircraft.
- (c) The security, comfort, and convenience of airport personnel and the users of air transportation.
- (d) Mail service.
- (e) Military and national guard units.

(f) The safe and efficient operation and maintenance of an airport, and all appurtenant areas used for airport facilities, and all appurtenant rights-of-way.

(3) "Bond" means any bond, note, or other obligation issued under s. 66.0621 by a district.

(4) "Chief ^{elective} elected official" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, or the county executive of a county or, if the county does not have a county executive, the chairperson of the county board of supervisors.

(5) "District" means a special purpose district created under this subchapter.

(6) "District board" means the governing board of a district.

(7) "Enabling resolution" means a resolution adopted by the governing body of a local governmental unit to create a district.

earliest date on which all of the following are in effect: (9)

(8) "FAA" means the federal aviation administration.

date on which all of the following take effect: (11)

(9) "FAA approval date" means the effective date of the issuance by the FAA to the district assuming jurisdiction of an airport, of a certificate under 14 CFR 139 with respect to such airport, and the concurrence by the FAA of the designation of the district as a sponsor of such airport, including the FAA's approval of the assignment of existing grant agreements to the district.

***NOTE: Ask Aaron about this definition.

(10) "Local governmental unit" means any city, village, or county.

(11) "Political subdivision" means any city, village, town, or county.

(12) "PFC" means a passenger facility charge authorized under 49 USC 40117 and designated as a passenger facility charge under 14 CFR 158.

***NOTE: Ask Aaron about this definition.

has the meaning given in 49 USC 47102(24)?

(13) "Sponsor" means the public agency authorized by subchapter I of chapter 471 of title 49 of the United States Code to submit requests for financial assistance from the FAA.

This reference seems rather broad. Would you prefer to cross-reference the definition in
****NOTE: Ask Aaron about this definition. I can't find this in the USC.

(14) "Transfer agreement" means a contract between a district and a local governmental unit that provides the terms and conditions upon which airport facilities and the operation of the facilities are transferred by a local governmental unit to a district.

229.861 Creation, organization, and administration. (1) (a) There is created, for each jurisdiction described under s. 229.862 (1), upon the appointment and qualification of the members of its district board, a district that is a unit of local government, that is a body corporate and politic, that is separate and distinct from, and independent of, the state and the political subdivisions within its jurisdiction, that has the powers under s. 229.863 and the name of which includes "Airport District."

(b) One or more local governmental units may create a district that is a unit of local government, that is a body corporate and politic, that is separate and distinct from, and independent of, the state and the political subdivisions within its jurisdiction, that has the powers under s. 229.863 and the name of which includes "Airport District", if all of the following occur:

1. Each local governmental unit adopts an identical enabling resolution declaring the need for, and establishing a district, and identifying the district's jurisdiction, as described under s. 229.862 (2).

2. The enabling resolution adopted by each local governmental unit is signed by that unit's *elective* chief executive official.

Stat
keep as typed

1 3. The signed enabling resolution is filed with the secretary of transportation.

2 4. The members of the district board are appointed and qualified.

3 (2) A district is governed by its district board. If the district is created under
4 sub. (1) (a), the district board consists of the members specified and appointed ~~under~~ *as follows:*

5 ~~sub. (3)~~ If the district is created under sub. (1) (b), the district board consists of the
6 members specified and appointed ~~under sub. (4)~~ *as follows:*

7 (3) (a) Four members of the district board shall be appointed by the governor

8 to ~~staggered~~ 4 year terms expiring on July 1, and 3 members of the district board

9 shall be appointed by the chief ~~elected~~ *elective* official of the county in which the airport is
10 located to ~~staggered~~ 4 year terms expiring on July 1, except that:

11 1. One of the governor's initial appointments and one of the chief ~~elected~~ *described*
12 official's initial appointments shall expire on July 1 of the 3rd year beginning after
13 the year of creation of a district. *under p. 224.862(1) 6.229.862(1)*

14 2. One of the governor's initial appointments and one of the chief ~~elected~~
15 official's initial appointments shall expire on July 1 of the 4th year beginning after
16 the year of creation of a district.

17 3. One of the governor's initial appointments and one of the chief ~~elected~~
18 official's initial appointments shall expire on July 1 of the 5th year beginning after
19 the year of creation of a district.

20 4. One of the governor's initial appointments shall expire on July 1 of the 6th
21 year beginning after the year of creation of a district.

22 (b) 1. A member appointed by the governor may take his or her seat
23 immediately upon appointment and qualification. Three of the members appointed
24 by the governor shall reside within the jurisdiction of the regional planning

commission created under s. 66.0309 in which the airport is located, and one member appointed by the governor may not reside within that area.

2. A member appointed by the chief ~~elect~~^{effective} official may not take his or her seat until he or she is confirmed by the county board.

(c) No member appointed under par. (a) may hold elective office or be an employee of any governmental body. A member appointed under par. (a) may be removed by the appointing authority ~~before the expiration of his or her term~~ for malfeasance or nonfeasance in office.

****NOTE: Ask Jeff about this provision.

(d) Members of the district board may serve any number of terms, except that no member of the district board may serve more than 2 consecutive terms. Vacancies shall be filled by the appointing authority who appointed the person whose office is vacant. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term to which he or she is appointed, unless removed at an earlier time, and such service shall be considered one term for purposes of determining consecutive terms of office.

(e) The term of a member of a district board expires or terminates upon the earliest occurrence of one of the following:

1. The term for which the member was appointed expires.
2. A member becomes an elective public official or an employee of a governmental body.
3. A member subject to a residency requirement establishes a nonqualifying residence.
4. The member is removed by the appointing authority for malfeasance or nonfeasance in office.

***NOTE. See previous note, re "governing body" and "malfeasance or nonfeasance."

Inst. from p. 9
 (4) (a) Subject to pars. (c) and (d), *five* ^{*elective*} members of the district board shall be appointed by the chief ~~elected~~ official of the creating local governmental unit to staggered 4 year terms expiring on July 1, each of whom shall be a resident of the local governmental unit.

(b) Subject to pars. (c) and (d), *two* ^{*elective*} members of the district board shall be appointed by the chief ~~elected~~ official of the creating local governmental unit to staggered 4 year terms expiring on July 1, neither of whom may be a resident of the county in which ^{*the largest*} ~~an~~ airport is located in whole or in part. *in the district*

(c) 1. Two of the chief ~~elected~~ ^{*elective*} official's initial appointments shall expire on July 1 of the 3rd year beginning after the year of creation of a district.

2. Two of the chief ~~elected~~ official's initial appointments shall expire on July 1 of the 4th year beginning after the year of creation of a district.

3. Three of the chief ~~elected~~ official's initial appointments shall expire on July 1 of the 5th year beginning after the year of creation of a district.

(d) If a district is created by more than one local governmental unit, the appointment of district board members shall be allocated between the participating units based on an agreement entered into by all of the creating local governmental units. The agreement shall be specified in the enabling resolutions.

(e) A member appointed under this subsection may not take his or her seat until he or she is confirmed by the local government unit's governing body.

(f) Paragraphs (c) to (e) of sub. (3), as they apply to members appointed under that subsection, ^{*sub. (3)*} apply to members appointed under this subsection.

(5) (a) Upon the appointment and qualification of a majority of the members of a district board, and prior to the FAA approval date, the district board may organize and exercise the powers and duties of a district board under this subchapter.

creating' in the enabling resolution, units should decide how the seats on the board should be allocated. Is this OK?

NOTE: Is this change OK?

NOTE: I used "participating" and "creating" to account for the possibility that a district's jurisdiction may expand, but that the

****NOTE: This subsection is drafted according to your instructions, but it seems to me that it may cause problems. The subsection seems to authorize the district board to exercise its powers, for example, to hire employees, issue bonds, collect fees, create a police force, etc., while the county is still the FAA-designated "sponsor" of the airport and in actual control of all airport functions. This seems to create ambiguity as to who is actually in control of Mitchell Field. It seems like both the district board and Milwaukee County (assuming it's the county that currently owns and operates the airport) have apparent authority to act, but that the county has the actual authority to act. Is this accurate? If so, how would you like to resolve this problem, which occurs in other parts of the draft as well. Would it make more sense to prohibit the district board from exercising any of its powers until the transfer agreement takes effect? Would it make sense to authorize the district board to exercise its powers, but only to the extent that the sponsor or Milwaukee County endorses district action? ✓

1 (b) Officers and employees of the local governmental unit that created the
2 district, or that owns or operates an airport whose jurisdiction is described in s.
3 229.862 (1), and members of the district board, shall actively cooperate to obtain FAA
4 recognition of the district as the sponsor of the airport, and to obtain FAA approval
5 of a transfer agreement.

****NOTE: I added the phrase "or that owns or operates an airport whose jurisdiction is described in s. 229.862 (1)" to ensure that this subsection applies to Mitchell Field, which seems to be your intent. Is this OK?

6 (6) (a) The district board shall elect from its membership a chairperson, a vice
7 chairperson, a secretary, and a treasurer, each of whom shall serve for one year
8 terms, unless another term is specified in the by-laws. by laws ← one word

9 (b) Four members of the district board constitutes a quorum and the
10 affirmative vote of a majority of a quorum is necessary for the district board to take
11 any action.

12 (7) The district board shall name the district, and the name shall include
13 "Airport District".

14 (8) The members of the district board shall be reimbursed for their actual and
15 necessary expenses incurred in the performance of their duties.

16 **229.862 Jurisdiction.** (1) With regard to a county that on the effective date
17 of this subsection [revisor inserts date] owns or operates an airport classified by the

2,000,000
1 FAA as a transport airport which provides scheduled air transportation services and
2 which had in excess of two million scheduled passenger enplanements during the
3 preceding ¹²twelve-month period, the initial jurisdiction of the district created under
4 s.229.861 (1) (a) is the territory of that airport.

△
****NOTE: Sub. (1) is based on the drafting instructions you provided, but the sample draft uses both the term "owns **or** operates" and "owned **and** operated." Which term reflects your intent? Also is "territory of the airport" specific enough?

5 (2) The initial jurisdiction of a district created under s. 229.861 (1) (b) includes
6 all or part of the territory of a local governmental unit, as specified in the enabling
7 resolution, except that no territory may be within the jurisdiction of more than one
8 district and no local governmental unit may create a district having jurisdiction over
9 an airport owned or operated by another unit of government without the consent of
10 that other unit of government.

11 (3) The jurisdiction of any district shall expand beyond its initial jurisdiction
12 to include any additional territory that is owned or leased by the district, and shall
13 contract from its initial jurisdiction to exclude any territory that is no longer owned
14 or leased by the district. The jurisdiction of a district may include territories that are
15 not contiguous or that are located in multiple units of government.

16 **229.863 Powers of a district.** A district has all of the powers necessary or
17 convenient to carry out the purposes and provisions of this subchapter. In addition
18 to all other powers granted by this subchapter, a district may do all of the following:

19 (1) Adopt bylaws to govern the district's activities, subject to this subchapter.

20 (2) Sue and be sued in its own name, plead and be impleaded.

21 (3) Maintain an office.

22 (4) In connection with airport facilities:

1 (a) Acquire, construct, equip, maintain, improve, operate, and manage
2 property, interests, or easements in property.

3 (b) Acquire property by condemnation for the purpose of . . . using the
4 procedures under ch. 32.05.

****NOTE: Please supply a purpose for this paragraph. Also, is it necessary to list this power here? You also want a district to be able to exercise any power under ch. 114 (see sub. (17)), and s. 114.12 gives municipalities the right to acquire property by eminent domain for airport purposes. ✓

5 (c) Grant concession. ^s

6 (d) Enter into contracts, subject to such standards as may be established by the
7 district board. The district board may award any such contract for any combination
8 or division of work it designates and may consider any factors in awarding a contract,
9 including price, time for completion of work, and qualifications and past performance
10 of a contractor. Except for professional services contracts, and subject to s. 66.0901,
11 all contracts for the construction, repair, remodeling, and improvement of any public
12 work, the estimated costs of which exceed \$100,000, shall be let by contract to the
13 lowest qualified and competent bidder. The district may reject any bid that is
14 submitted under this paragraph. ✓

****NOTE: Does this par. meet your intent? I wasn't sure whether your instructions meant that no professional services contracts are subject to the lowest bid requirement, or that only such contracts that are estimated to cost under \$100,000 are subject to such requirements. ^{stet}

15 (e) Sell or otherwise dispose of unneeded or unwanted property.

16 (5) Employ personnel, and fix and regulate their compensation; and provide,
17 either directly or subject to an agreement under s. 66.0301 as a participant in a
18 benefit plan of another governmental entity, any employee benefits, including an
19 employee pension plan.

1 (6) Purchase insurance, establish and administer a plan of self-insurance or,
2 subject to an agreement with another governmental entity under s. 66.0301,
3 participate in a governmental plan of insurance or self-insurance.

 ****NOTE: Your drafting instructions for this subsection included a cross-reference
to s. 229.47 -- transfer agreements related to a local exposition district. This didn't make
any sense to me, so I didn't include the cross-reference. Is sub. (6) as drafted OK? If not,
what was your intent w/ the x-ref to s. 229.47?

4 (7) Subject to ss. 229.866 and 229.867, issue bonds under s. 66.0621, and pledge
5 revenues and grant liens to secure the bonds.

 ****NOTE: Ask RAC what "grant liens" to secure the bonds -- that phrase isn't used
in the state. What does it mean? *Compare to ss. 229.68(7) and (8), 229.824(7) and (8),
and 229.844(7) and (8).*

6 (8) Maintain funds and invest the funds in any investment that the district
7 board considers appropriate.

8 (9) Enter into interest rate exchange transactions or transactions to provide,
9 currently or prospectively, a maximum or minimum interest rate on all or a portion
10 of the indebtedness of the district and grant mortgages and other liens to secure the
11 indebtedness.

 ****NOTE: Ask RAC what this means and whether it's necessary.

12 (10) Promote, advertise, and publicize the airport, airport facilities, and the
13 district, and provide information to persons with an interest in air transportation
14 and other district activities.

15 (11) Appear before rate-making and rule-making authorities to represent and
16 promote the interests of the district.

17 (12) Set standards governing the use of, and the conduct within, its airport
18 facilities in order to promote public safety and convenience and to maintain order.

19 (13) (a) The district shall have concurrent police power, with other authorized
20 peace officers, in its jurisdiction. Such concurrent police authority shall not be
21 construed to reduce or lessen the authority of the police power of the political

1 subdivision in which an airport may be located. All district police officers shall
2 cooperate with and be responsive to the local police authorities as they meet and
3 exercise their statutory responsibilities. All district police officers may arrest, with
4 or without warrant, any person on or in airport facilities within the district's
5 jurisdiction who the officers have reasonable grounds to believe has violated a state
6 law or any rule promulgated under this subchapter and deliver the person to any
7 court having jurisdiction over the violation and execute a complaint charging the
8 person with the violation. This subsection does not impair the duty of any other
9 peace officers within their jurisdictions to arrest and take before the proper court
10 persons found violating any state law on or in airport facilities within the district's
11 jurisdiction.

12 (b) The district may employ police for the airport facilities and chiefs to head
13 such police, or contract for police with a political subdivision, all of whom shall be
14 considered peace officers under s. 939.22(22) under the supervision and control of the
15 district. The police officers shall meet the minimum standards established for other
16 police officers by the law enforcement standards board or a comparable agency. The
17 police shall preserve the peace in the jurisdiction of the district and enforce all rules
18 promulgated under this subchapter and all other laws. The district may, subject to
19 s. 66.0313, request of any other law enforcement agency assistance within the
20 district's jurisdiction, notwithstanding any other jurisdictional provision.

****NOTE: This subsection is based on s. 36.11 (2), which applies to University of
Wisconsin System police. I made a number of changes in the language to make it more
specific to airport facilities, rather than "institutions", which would be more appropriate
for the UW system. Is this OK? Also, I did not include the suggested language
authorizing the district to employ security personnel to provide routine patrol functions,
or to contract for such services. It seems to me that the district already has this authority
under subs. (5) and (4) (d).

1 (14) Establish and collect rates and charges for the use of airport facilities or
2 for services provided by the district, including PFCs under the Federal Aviation Act
3 of 1958, as amended.

****NOTE: Ask ARG

4 (15) Engage accountants, attorneys, consultants, and other professionals or
5 service providers.

6 (16) Enter into partnerships, joint ventures, common ownership, or other
7 arrangements with other persons to further the district's purposes.

8 (17) Exercise any power that a municipality, as defined in s. 114.002 (15), may
9 exercise under ch. 114.

****NOTE: This provision is drafted according to your instructions but, based on
other instructions, i.e. s. xxx.06 (1), on page 9 of your instructions, I believe it's overbroad.
For example, s. 114.15 authorizes a municipality to impose a tax to "carry out the
provisions" of ch. 114 and it seems clear that your intent is for the district to have no
authority to tax. You may wish to go through ch. 114 and let me know exactly which
provisions you'd like to apply to a district.

10 (18) Enter into an agreement with a political subdivision to establish an airport
11 affected area under s. 66.1009.

12 (19) Act as a sponsor . . .

****NOTE: I did not include the material suggested for s. xxx.05 (20), the district
power to "act as sponsor and submit requests for, accept, and be responsible to perform
all of the assurances associated with accepting grants from the FAA or any other agency
of the United States or of this state, with respect to an airport owned by the district, and
to perform the duties and responsibilities previously assumed by the municipality or
municipalities which have transferred an airport to the district pursuant to s. XXX.09 by
virtue of its acceptance of grants from the FAA or any other agency of the United States
or this state."

close space
keep indent
****NOTE: I did not include this proposed subsection because I'm not sure what it
means, and because it didn't make sense to me. Subsection 229.861 (5) authorizes the
district board to exercise authority under this subchapter, which in itself may cause some
problems if Milwaukee County still has the actual authority to run the airport, and this
subsection would allow the district board to act as the sponsor before it actually receives
FAA designation as the sponsor. If the FAA eventually designates the board as the
sponsor, why would this subsection be needed at all?

13 (20) Take any necessary action to comply with the terms and conditions of a
14 FAA certificate, as described in 14 CFR 139.

****NOTE: This subsection has the same problem as several others, as described in the previous ****NOTE, in that it appears to set up dual authority with Milwaukee County. Also, after the airport is transferred, I don't think that this subsection would be needed because of the general authority the district board has, in s. 229.863 (intro.): "A district has all of the powers necessary or convenient to carry out the purposes and provisions of this subchapter." Wouldn't this authority be sufficient? ✓

1 **(21) Protect the aerial approaches to an airport . . .**

****NOTE: I did not include this instruction, from s. xxx.05 (22), page 9 of the instructions, because it is redundant. It basically copies s. 114.136 and, under sub. (17), the district is already authorized to exercise the powers that a municipality may exercise under ch. 114. ✓

2

3 **229.864 Powers granted to local governmental units; limitations on**
4 **powers. (1)** In addition to any powers that it may otherwise have, a local
5 governmental unit may do any of the following:

6 (a) Make grants or loans to a district upon terms that the local governmental
7 unit considers appropriate.

8 (b) Expend public funds to subsidize a district. ✓

9 (c) Borrow money under ss. 67.04 and 67.12 (12) for airport facilities or to fund
10 grants, loans, or subsidies to a district.

11 (d) Lease or transfer property to a district upon terms that the local
12 governmental unit considers appropriate.

13 **(2)** Notwithstanding ss. 59.69, 60.61, 60.62, 61.35, and 62.23, a political
14 subdivision may not enact or enforce a zoning ordinance within the jurisdiction of a
15 district.

16 **229.865 Transfer agreements. (1)** (a) In the case of a district created under
17 s. 229.861 (1) (a), and subject to pars. (b) to (d), the county shall transfer and assign
18 to the district all of the county's right, title, and interest in an airport and airport
19 facilities ^{that are} owned or operated by the county on the effective date of this paragraph

△ △

Δ.....Δ[revisor inserts date]

7th

1 [revisor inserts date], on the soonest practicable date agreed to by the district and
2 the county, but such date may not be later than the first day of the seventh month
3 beginning after the effective date of this paragraph. The transfer shall include all
4 of the county's interest in assets, property, licenses, contracts, and revenues related
5 to the airport and airport facilities. On the date of transfer, the district shall accept
6 the assignment of all contracts with other persons, with respect to the transferred
7 airport and airport facilities, that are in force at the time of transfer, and shall
8 assume all obligations and liabilities of the county related to the airport and airport
9 facilities. The district shall indemnify the county and hold the county harmless
10 against and from all obligations and liabilities that are transferred to the district
11 under this paragraph.

12 (b) The county shall cooperate with the district in obtaining any third-party
13 consents or approvals that are necessary to accomplish the transfer and provide for
14 safe and uninterrupted service at the airport and airport facilities. The appropriate
15 officials of the county shall execute any deed, bill of sale, or other instrument of
16 conveyance, assignment, or transfer as may be necessary to accomplish the transfer.

17 (c) On the date of the transfer, the district shall accept an assignment of any
18 collective bargaining agreement in force at the time of the transfer with respect to
19 persons employed by the county at a transferred airport or airport facilities. The
20 transfer transaction shall be without financial consideration other than the
21 assumption of liabilities and obligations.

22 (d) Notwithstanding the provisions of pars. (a) to (c), the transfer agreement
23 entered into by the county and the district under this subsection may contain more
24 specific, or different, terms and conditions than the transactions or provisions

1 required under pars. (a) to (c), and the transfer agreement may contain exceptions
2 to what otherwise would be required by pars. (a) to (c).

****NOTE: Par. (d) is drafted according to your instructions contained on pages 10 and 11 of the draft you submitted, but it seems to allow the district and the county to reach any agreement that they want on any terms that they want, and may even remove the requirement that the transfer occur no later than the first day of the 7th month beginning after the effective date of the bill. Is par. (d) consistent with your intent? ✓

3 (2) A local governmental unit may enter into a transfer agreement with a
4 district created under s. 229.861 (1) (b) to provide the terms and conditions upon
5 which the local governmental unit transfers an airport and airport facilities to the
6 district. A transfer may take the form of a sale, lease, or other conveyance and may
7 be with or without financial consideration. A transfer agreement shall require the
8 district to accept an assignment of any collective bargaining agreement in force at
9 the time of the transfer with respect to persons employed by the local governmental
10 unit at a transferred airport or airport facilities. A transfer agreement shall require
11 the district to accept an assignment of all contracts with other persons, with respect
12 to transferred airport facilities that are in force at the time of transfer.

Does this subsection meet your intent?
****NOTE: Check w/ RAC re: collective bargaining language. Compare to s. 229.47 references
ref. to subch. IV of ch. 111, lang. relating to "assume the functions of the employer . . ."
Also see ss. 40.02 (28), 111.02 (7), 111.70 (1) (g). Do you want district employees to have
collective bargaining rights under state statutes?

13 (3) A local governmental unit may transfer an airport and airport facilities, and
14 any related assets, property, licenses, contracts, and revenues to a district created
15 by another local governmental body or to a district created under s. 229.861 (1) (a)
16 upon the terms and conditions contained in a transfer agreement that is agreed to
17 by the parties.

18 INS RAC

19 **229.868 Budgets; rates and charges; audit.** A district shall adopt a
20 calendar year as its fiscal year for accounting purposes. The district board shall

1 annually prepare a budget for the district. Rates and other charges received by the
2 district shall be used for the general expenses and capital expenditures of the district
3 and to pay interest, amortization, and retirement charges on bonds. The district
4 shall maintain an accounting system in accordance with generally accepted
5 accounting principles and shall have its financial statements and debt covenants
6 audited annually by an independent certified public accountant.

7 **229.869 Dissolution of a district.** Subject to providing for the payment of
8 its bonds, including interest on the bonds, and the performance of its other
9 contractual obligations, a district may be dissolved by the ^{district}board of directors and the
10 airport, airport facilities, and other property of ^eby the district shall be transferred
11 to a political subdivision, other district, or other public body that agrees to accept the
12 transfer.

13 **229.870 Immunity.**

14 *****NOTE:** See instructions and ask RPN. Districts seem to be covered by s. 893.80

15 (END)

D-NOTE

ETHICS

Members of a district board are subject to the statutory code of ethics for local public officials. In addition, board members are subject to other standards of conduct that apply to state public officials. However, like other local public officials, district board members are not subject to periodic reporting requirements.

SECTION 1. 19.42 (13) (a) of the statutes is amended to read:

19.42 (13) (a) All positions to which individuals are regularly appointed by the governor, except the position of trustee of any private higher educational institution receiving state appropriations and, the position of member of the district board of a local professional baseball park district created under subch. III of ch. 229 and, the position of member of the district board of a local cultural arts district created under subch. V of ch. 229 and the position of member of the district board of a local airport district created under subch. VI of ch. 229.

History: 1973 c. 90; Stats. 1973 s. 11.02; 1973 c. 333; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.42; 1977 c. 29, 223, 277; 1977 c. 447 ss. 35, 209; 1979 c. 34, 177, 221; 1981 c. 20, 269, 349, 391; 1983 a. 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 166 ss. 1 to 4, 16; 1983 a. 484, 538; 1985 a. 26; 1985 a. 29 s. 3202 (46); 1985 a. 304; 1987 a. 72, 119; 1987 a. 312 s. 17; 1987 a. 340, 365, 399, 403; 1989 a. 31, 338; 1991 a. 39, 189, 221, 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 274; 1997 a. 27; 1997 a. 237 ss. 19m, 722q; 1997 a. 298; 1999 a. 42, 65; 2001 a. 16, 104, 109; 2003 a. 39.

SECTION 2. 19.59 (1) (g) 1. a. of the statutes is amended to read:

19.59 (1) (g) 1. a. "District" means a local professional baseball park district created under subch. III of ch. 229 ~~or~~, a local professional football stadium district created under subch. IV of ch. 229 or a local airport district created under subch. VI of ch. 229.

History: 1979 c. 120; 1981 c. 149; 1981 c. 335 s. 26; 1983 a. 166 s. 16; 1991 a. 39, 269; 1995 a. 56, 227; 1999 a. 167; 2001 a. 109; 2003 a. 39.

INS
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**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1209/P1ins JK
JK:.....

JOE'S INSERT

Subch. VI of
ch. 229

a local

A local

1 **SECTION 1.** 70.11 (44) of the statutes is created to read:

2 70.11 (44) Property of an airport district created under s. 229.861 (1). ✓

3 **SECTION 2.** 71.05 (1) (c) 7. of the statutes is created to read:

4 71.05 (1) (c) 7. An airport district created under s. 229.861 (1). ✓

5 **SECTION 3.** 71.26 (1) (bm) of the statutes is amended to read:

6 71.26 (1) (bm) *Certain local districts.* Income of a local exposition district
7 created under subch. II of ch. 229, a local professional baseball park district created
8 under subch. III of ch. 229, a local professional football stadium district created
9 under subch. IV of ch. 229, or a local cultural arts district created under subch. V of
10 ch. 229, or an airport district created under s. 229.861 (1). ✓

a local

subch. VI of ch. 229

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25.

11 **SECTION 4.** 71.26 (1m) (g) of the statutes is amended to read:

12 71.26 (1m) (g) Those issued under s. 66.0621 by a local professional baseball
13 park district, a local professional football stadium district, or a local cultural arts
14 district, or an airport district.

a local

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25.

15 **SECTION 5.** 71.36 (1m) of the statutes is amended to read:

16 71.36 (1m) A tax-option corporation may deduct from its net income all
17 amounts included in the Wisconsin adjusted gross income of its shareholders, the
18 capital gain deduction under s. 71.05 (6) (b) 9. and all amounts not taxable to
19 nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362. For purposes
20 of this subsection, interest on federal obligations, obligations issued under s. 66.0621
21 by a local professional baseball park district, a local professional football stadium
22 district, or a local cultural arts district, or an airport district, obligations issued

a local

under ss. 66.1201, 66.1333, and 66.1335, obligations issued under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36) and obligations issued under subch. II of ch. 229 is not included in shareholders' income. The proportionate share of the net loss of a tax-option corporation shall be attributed and made available to shareholders on a Wisconsin basis but subject to the limitation and carry-over rules as prescribed by section 1366 (d) of the Internal Revenue Code. Net operating losses of the corporation to the extent attributed or made available to a shareholder may not be used by the corporation for further tax benefit. For purposes of computing the Wisconsin adjusted gross income of shareholders, tax-option items shall be reported by the shareholders and those tax-option items, including capital gains and losses, shall retain the character they would have if attributed to the corporation, including their character as business income. In computing the tax liability of a shareholder, no credit against gross tax that would be available to the tax-option corporation if it were a nontax-option corporation may be claimed.

History: 1987 a. 312; 1995 a. 27, 56; 1999 a. 65; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 38.

SECTION 6. 71.45 (1t) (g) of the statutes is amended to read:

71.45 (1t) (g) Those issued under s. 66.0621 by a local professional baseball park district, a local professional football stadium district, or a local cultural arts district, or an airport district.

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 435, 255, 326.

SECTION 7. 77.25 (22) of the statutes is created to read:

77.25 (22) From an airport district created under s. 229.861 (1).

SECTION 8. 77.54 (9a) (i) of the statutes is created to read:

77.54 (9a) (i) An airport district created under s. 229.861 (1).

SECTION 9. 78.01 (2) (g) of the statutes is created to read:

Subch. VI
of ch. 229

1 78.01 (2) (g) Gasoline sold to and used by an airport district created under s. ^{a local}

2 229.861 (1).

3 SECTION 10. 78.01 (2m) (h) of the statutes is created to read:

4 78.01 (2m) (h) It is sold to and used by an airport district created under s. ^e

5 229.861 (1).

a local

Subch. VI of
ch. 229

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1209/P1insRC
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INS RAC, p. 1 of 4

⁸⁶⁶
229.867 Issuance of bonds. (1) A district may issue bonds under s. 66.0621

for any corporate purpose related to airport facilities, the operation of an airport, or the impact of an airport on surrounding areas and properties. The district may issue bonds to fund, refund, advance refund, or purchase any outstanding bond of the district. All bonds of the district are declared to be negotiable for all purposes, notwithstanding that their payment may be from a limited source. ✓

(2) The bonds shall be payable solely out of revenues of the district that are specified in the bond resolution of the district or in a related trust indenture.

(3) The bonds shall be authorized by a bond resolution of the district and shall bear dates, mature at times not exceeding 40 years from their respective dates of issue, bear interest at fixed or variable rates, be payable at times, be in denominations, be in certificated or book entry or other form, either coupon or fully registered, carry registration and conversion privileges, be executed in such a manner, be payable in lawful money of the United States at places, and be subject to any terms of redemption as provided in the bond resolution or the related trust indenture. The bonds shall be executed by the manual or facsimile signatures of such officers of the district as the district designates. The bonds may be sold at public or private sale at a price and in such a manner as the district determines. Pending preparation of the definitive bonds, the district may issue interim receipts or certificates that shall be exchanged for the definitive bonds.

INS/RAC
p. 2 of 4

(4) A bond resolution or a related trust indenture may contain provisions, which shall be a part of the contract with the bondholders under the resolution, relating to any of the following:

(a) Pledging or assigning the revenues of the project with respect to which the bonds are to be issued or other specified revenues or properties of the district.

(b) The rentals, fees, and any other amounts to be charged, and the sums to be raised in each year from the rentals, fees, and any other amounts to be charged, and the use, investment, and disposition of the sums.

(c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds.

(d) Limitations on the purpose to which, or the investments in which, the proceeds from the sale of any issue of bonds may be applied.

(e) The setting aside of reserves or sinking funds, and their regulation, investment, and disposition.

(f) The funding, refunding, advance refunding, or purchase of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which this consent may be given.

(h) Defining the acts or omissions to act that shall constitute a default in the duties of the district to the holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(i) Any other matters relating to the bonds that the district considers appropriate.

district

*INS
RAC p.3 of 4*

(5) Neither the members of the board of directors nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds.

(6) The district may secure any bonds by a trust agreement, trust indenture, indenture of mortgage, or deed of trust by and between the district and one or more trust companies or banks having trust powers. The bond resolution providing for the issuance of bonds or a related trust indenture may mortgage, pledge, assign, and grant security interests in any of the revenues and property of the district and may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper, and may restrict the individual right of action by bondholders. In addition, any bond resolution or a related trust indenture may contain any other provisions that the district considers reasonable and proper for the security of the bondholders.

(7) The district may purchase bond insurance, letters of credit, or other forms of credit enhancement to secure the bonds and may enter into reimbursement agreements with the providers thereof and may secure the same with mortgages, liens, and pledges of the district's properties and revenues.

(8) Neither the state nor any political subdivision of the state is liable on bonds of the district. All bonds of the district shall contain a statement to that effect. The issuance of bonds by the district shall not, directly or indirectly or contingently, obligate the state or any political subdivision of the state to levy any form of taxation therefor or to make any appropriation for their payment.

⁸⁶⁷
229.868 State pledge. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a district, that the state will not limit or alter the rights and powers vested in a district before the district has fully met and

FNS RAC p. 4064

discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with the district.

✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1209/P1dn

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CS
NOTES

Representative Stone:

Please review this draft very carefully to ensure that it is consistent with your intent. The draft contains a number of questions or comments, that appear as a ****NOTE, that must be addressed. In addition, we have a number of other comments and concerns.

On a fundamental level, the instructions don't seem to clearly address the question of who or which entity is in charge of General Mitchell International Airport during the transition from the current situation to the time when airport is transferred to the district board and the FAA names the board as the "sponsor" as defined in the bill. Although we know Milwaukee County currently owns and operates Mitchell Field, and we assume the county is the current "sponsor" for FAA purposes, we can't determine from the instructions what your intent is as to who should be in charge of the airport throughout the process. The bill should not allow either a void of authority, or a situation where there are 2 apparent bosses. Some parts of the instructions, however, seem to lead to a situation where both the district and the county have authority, or lead to confusion as to who has the actual authority to act. See, for example, my ****NOTES after created ss. 229.861 (5) and 229.863 (19). In addition, we're not sure what s. xxx.03 (3) of the instructions mean by stating that upon the effective date of the transfer of the airport to the district, the district has "preemptive rights" to exercise the authority granted under sub. VI of ch. 229.

What would happen if the FAA refuses, for whatever reason, to issue the district an approval certificate under 14 CFR 139 after the bill becomes law and Milwaukee County transfers the airport to the district? Does it make sense to state that a transfer agreement can't take effect until the FAA issues an approval certificate?

Although a number of ****NOTES deal with conflicts between the instruction that a district may exercise all of the powers of a municipality under ch. 114, and other instructions that prohibit the district from doing something that is authorized in ch. 114 (a district acting under s. 114.15, for example, would seem to have the authority to impose a tax, although several other instructions state that the district should have no taxing authority), we just want to stress the need for you to carefully look through ch. 114 and identify the particular statutes under which you'd like a district to be able to act. In addition, you may want to examine ch. 114 for statutes that may need to be amended to prohibit a municipality, as defined in s. 114.002 (15), from doing something

that it presently may do under ch. 114, but that you would not like the municipality to be able to do if the action would affect a district.

With regard to some of the technical definitions and concepts in the bill, such as "FAA approval date", "PFC", "sponsor", the rates and charges the district may charge under the Federal Aviation Act of 1958, and some of the issues raised in this note regarding ch. 114, you may wish to have the draft reviewed by the Department of Transportation. ←

We did not include under the district's powers the instructions contained in s. xxx.05 (8), (9), and (10), from pages 6 and 7, of the draft provided by Dana Lach. These subsections authorized the district to enter into very specific types of contracts. We do not think that this language is necessary because s. 229.863 (4) (d), as created in the draft, authorizes the district "In connection with airport facilities: Enter into contracts, subject to such standards as may be established by the district board." We believe that this very broad authority encompasses all of the specific authority contained in the drafting instructions. Consequently, we don't believe ss. xxx.05 (8), (9), and (10) provide any authority to the district that it does not already possess under s. 229.863 (4) (d). ✓

We modified the language from the instructions, s. xxx.05 (14), on page 7, which authorized the district to enact ordinances, establish civil and criminal penalties for the violation of the district's rules, and authorized the district to enact ordinances to the same extent as the city of Milwaukee and Milwaukee County. Only the state may determine whether a particular violation is criminal, not a local unit of government. Consequently, it seems that the suggested language is somewhat overbroad. As drafted, s. 229.863 (12) authorizes the district to set standards governing the use of, and the conduct within, its airport facilities in order to promote public safety and convenience and to maintain order. This language is nearly identical to the current law provisions which apply to local professional baseball park and football stadium districts. See ss. 229.68 (12) and 229.824 (11). Is this OK? If not, what is your intent? ✓

The instructions state that the district should be subject to the the state open meetings and open records statutes (see ss. 19.81 to 19.98, and 19.31 to 19.39, respectively). Because a district to which the bill applies, is defined as "a unit of local government, that is a body corporate and politic" (see s. 229.861 (1) (a) and (b)), the open meetings and open records statutes already apply to the district. ✓

In addition, because a district is a unit of local government, that is a body corporate and politic, quite a few other statutes that generally apply to local governmental units probably apply to airport districts unless you specifically remove such districts from the application of such statutes, and other statutes which generally do not apply to local governmental units probably would not apply to airport districts unless such districts are specifically added.

The reason that we added the qualifier "probably" is because, although the bill states that an airport district is a unit of local government, the fact is that four out of the seven members of the board of directors for the district that is to take over Mitchell Field are appointed by the governor. Consequently, one could argue that this district is not really a unit of local government and is instead a unit of state government. Dana Lach is

looking into other legal implications of the possibility that gubernatorial control over the district board could make the Mitchell Field district a unit of state government.

✓ ✓ ✓ We have checked the statutory cross-references that apply to subch. [§] III, IV, and V of ch. 229 (baseball park districts, football stadium districts, and cultural arts districts) and added to them a cross-reference for airport districts if it seemed consistent with the treatment of these other districts. See, for example, the amendment of ss. 16.70 (14), 25.50 (1) (d), and 66.0301 (1) (a), and the creation of various statutes which are followed by ****NOTES. You may wish to review all of these cross-references and let us know if you'd like any changes made to the draft. Some cross-references apply only to some, but not all, of these special purpose districts. See, for example, ss. 13.94 (10), 18.03 (5s), 66.0603 (1m) (a) (intro). and 3m. to 3q. How would you like airport districts treated in these statutes? ←

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INS
DN-T We also have a number of concerns about possible constitutional issues related to certain provisions in the bill.

This draft adheres to the structure of 1995 Act 56 in several respects, and the constitutionality of relevant provisions of that act were upheld in *Libertarian Party v. State*, 199 Wis.2d 790 (1996). The draft is also modeled on certain provisions from 1999 Acts 65 and 167. Therefore, the issues that were novel prior to enactment of 1995 Act 56 have now in many instances been reviewed and decided. There is no better authority on a point of state law than a recent holding of the Wisconsin Supreme Court that is almost directly in point. Every enactment of the legislature enjoys a presumption of constitutionality and any doubt must be resolved in favor of the constitutionality of a statute. *Sambs v. City of Brookfield*, 97 Wis. 2d 356 at 370 (1980). Nevertheless, the language and reasoning of *Libertarian Party* in some cases left unexplained logical issues and inconsistencies with the Court's prior decisions, which may indicate that there is some risk that the Court might refine its thinking if the issues are ably reargued. Given this situation, it may be the better part of wisdom to design this draft to fit this recent holding as closely as possible. However, because alternative choices are available, we raise these issues for your consideration:

1. Article VIII, section 10, of the Wisconsin Constitution prohibits the state from being a party to carrying on works of internal improvement. In *Libertarian Party*, because the Court found that construction of stadium facilities serves a predominately governmental purpose, it found no violation of the internal improvements clause. 199 Wis. 2d 790 at 816. In other cases, however, the Court has said this is not enough: see, for example, *State ex rel. Jones v. Froehlich*, 115 Wis. 32 (1902), where the Court requires that there be an essential governmental function and that private capital be inadequate to fund the project. 115 Wis. 32 at 41. See also *State ex rel. Martin v. Giessel*,

252 Wis. 363 at 365-374 (1948) and *Dept. of Development v. Building Comm.*, 139 Wis. 2d 1 at 9-11 (1987). In *Libertarian Party*, the Court did not distinguish these cases. Because the public purpose doctrine stands independently of the internal improvements clause [see, for example, *Rath v. Community Hospital*, 160 Wis. 2d 853 at 862 (Ct. App., 1991)], it would have been helpful for the Court to explain what, if anything, remains of the internal improvements clause under its revised interpretation. Despite the remaining uncertainty, it should be noted that while this draft retains some state involvement (see proposed s. 229.861 (3) (a) (intro.)), it does not include any requirement for the department of administration to provide services generally to a cultural arts district (see ss. 16.82 and 16.854, stats.), nor any state involvement in the issuance of bonds by a cultural arts district (see s. 229.74, stats.) so state involvement here is less extensive than under *Libertarian Party*. To resolve all uncertainty, however, state involvement would need to be completely removed.

2. Also related to the issue of state involvement is the line of cases that holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d. 391 at 421 (1973) and 77 Marquette Law Review, 466-67 (1994). Although we don't believe you want the district to be able to impose a tax (see ****NOTE under s. 229.863 (17)), the district may impose charges and collect revenues to pay off its bonds and meet other general obligations and debts. If the district is not viewed as a unit of local government, this principle would be offended. The draft states that the district that includes General Mitchell Field is a unit of local government [see proposed s. 229.861 (1) (a)]. However, under proposed s. 229.861 (3) (a) (intro.), the governor appoints four out of the seven members of the district board. Unfortunately, the Court in *Libertarian Party* did not determine what exactly constitutes a unit of local government, thereby leaving for another day the issue of whether a unit of government, like this one, with mixed state and local control is pure enough to pass the test.

3. Also related to the issue of expenditure at the level of taxation is the question of whether this principle would be offended if a local governmental unit subsidizes a district, as authorized in proposed s. 229.864 (1). Here again, this issue was not discussed in *Libertarian Party*. It can probably be said, however, that if any subsidy would serve a legitimate, independent public purpose of the local governmental unit, rather than serve simply as a means of circumventing revenue raising at the level of government where a subsidy is received, the proposed language, as applied, would not offend the "spend at the level of taxation" principle.

4. Article XI, section 3 (2), of the Wisconsin Constitution imposes a debt limitation on "municipal corporation[s]". Article XI, section 3 (3), further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. However, Article XI, section 3 (5), provides that the debt limitation does not apply to indebtedness created for the purpose of "purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a ...special district...[if]...secured solely by the property or income of such public utility...". Taking advantage of this exception, the draft, like 1995 Act 56, provides in its treatment of s. 66.0621, stats., that airport facilities are public utilities. Under *Payne v. Racine*, 217 Wis. 550 at 555 (1935), the term "public utilities", as used

in article XI, section 3 (5), "... must be considered to include all plants or activities which the legislature can reasonably classify as public utilities in the ordinary meaning of the term." *Libertarian Party* in effect holds that the legislature's classification of baseball stadium facilities as "public utilities" is a permissible interpretation of the term. 199 Wis. 2d 790 at 820. From this decision, we can conclude that the courts will probably construe this term very liberally. Provided that the courts agree that the airport facilities are a public utility and the income of the facilities is sufficient to retire the district's debts, this should not be a problem.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1209/P1dn
RAC/JK:.....

INS DN-X

We understand

229.866 and
Sections ~~229.867 and 229.868~~ are, respectively, versions of your ^{*l.c.*}XXX.10 and ^{*l.c.*}XXX.14. The text ~~I~~^{*we*} have drafted is fairly close to the suggested text, but ~~I~~^{*we*} have updated some of the language which was based on older current law provisions. Please review to make certain that ~~my~~^{*but*} changes continue to carry out your intent. ~~Marc Shovers~~^{*l.c.*} informed me that your intent is to have the Airport District issue revenue bonds under s. 66.0621. Please note that s. 66.0621 contains specific procedures and substantive provisions relating to the issuance of revenue obligations. You may wish to review the requirements relating to the issuance of the Airport District bonds, especially in proposed s. ~~229.867~~^{*866*} (4), to make certain that they do not conflict with the applicable requirements under s. 66.0621.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

Under the bill, the property of an airport district is exempt from the property tax, the income of the district is exempt from income and franchise taxes, property conveyed from the district is exempt from the real estate transfer fee, tangible personal property and taxable services that are purchased by the district are exempt from sales and use taxes, and gasoline and diesel fuel sold to and used by the district are exempt from the motor vehicle fuel tax. In addition, the income and interest from the bonds issued by the district are exempt from the income and franchise tax. Are all of these provisions consistent with your intent?

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1209/P1dn

MES:cjs:ch

October 14, 2005

Representative Stone:

Please review this draft very carefully to ensure that it is consistent with your intent. The draft contains a number of questions or comments, which appear as ****NOTES:, that must be addressed. In addition, we have a number of other comments and concerns.

On a fundamental level, the instructions don't seem to clearly address the question of who or which entity is in charge of General Mitchell International Airport during the transition from the current situation to the time when airport is transferred to the district board and the FAA names the board as the "sponsor," as defined in the bill. Although we know Milwaukee County currently owns and operates Mitchell Field, and we assume the county is the current "sponsor" for FAA purposes, we can't determine from the instructions what your intent is as to who should be in charge of the airport throughout the process. The bill should not allow either a void of authority, or a situation where there are two apparent bosses. Some parts of the instructions, however, seem to lead to a situation where both the district and the county have authority, or lead to confusion as to who has the actual authority to act. See, for example, my ****NOTES after created ss. 229.861 (5) and 229.863 (19). In addition, we're not sure what s. xxx.03 (3) of the instructions means by stating that upon the effective date of the transfer of the airport to the district, the district has "preemptive rights" to exercise the authority granted under sub. VI of ch. 229.

What would happen if the FAA refuses, for whatever reason, to issue the district an approval certificate under 14 CFR 139 after the bill becomes law and Milwaukee County transfers the airport to the district? Does it make sense to state that a transfer agreement can't take effect until the FAA issues an approval certificate?

Although a number of ****NOTES: deal with conflicts between the instruction that a district may exercise all of the powers of a municipality under ch. 114, and other instructions that prohibit the district from doing something that is authorized in ch. 114 (a district acting under s. 114.15, for example, would seem to have the authority to impose a tax, although several other instructions state that the district should have no taxing authority), we just want to stress the need for you to carefully look through ch. 114 and identify the particular statutes under which you'd like a district to be able to act. In addition, you may want to examine ch. 114 for statutes that may need to be amended to prohibit a municipality, as defined in s. 114.002 (15), from doing something

that it presently may do under ch. 114, but that you would not like the municipality to be able to do if the action would affect a district.

With regard to some of the technical definitions and concepts in the bill, such as "FAA approval date," "PFC," "sponsor," the rates and charges the district may charge under the Federal Aviation Act of 1958, and some of the issues raised in this note regarding ch. 114, you may wish to have the draft reviewed by the Department of Transportation.

We did not include under the district's powers the instructions contained in s. xxx.05 (8), (9), and (10), from pages 6 and 7, of the draft provided by Dana Lach. These subsections authorized the district to enter into very specific types of contracts. We do not think that this language is necessary because s. 229.863 (4) (d), as created in the draft, authorizes the district to "In connection with airport facilities: Enter into contracts, subject to such standards as may be established by the district board." We believe that this very broad authority encompasses all of the specific authority contained in the drafting instructions. Consequently, we don't believe ss. xxx.05 (8), (9), and (10) provide any authority to the district that it does not already possess under s. 229.863 (4) (d).

We modified the language from the instructions, s. xxx.05 (14), on page 7, which authorized the district to enact ordinances, establish civil and criminal penalties for the violation of the district's rules, and authorized the district to enact ordinances to the same extent as the city of Milwaukee and Milwaukee County. Only the state may determine whether a particular violation is criminal, not a local unit of government. Consequently, it seems that the suggested language is somewhat overbroad. As drafted, s. 229.863 (12) authorizes the district to set standards governing the use of, and the conduct within, its airport facilities in order to promote public safety and convenience and to maintain order. This language is nearly identical to the current law provisions which apply to local professional baseball park and football stadium districts. See ss. 229.68 (12) and 229.824 (11). Is this OK? If not, what is your intent?

The instructions state that the district should be subject to the the state open meetings and open records statutes (see ss. 19.81 to 19.98, and 19.31 to 19.39, respectively). Because a district to which the bill applies, is defined as "a unit of local government, that is a body corporate and politic" (see s. 229.861 (1) (a) and (b)), the open meetings and open records statutes already apply to the district.

In addition, because a district is a unit of local government, that is a body corporate and politic, quite a few other statutes that generally apply to local governmental units probably apply to airport districts unless you specifically remove such districts from the application of such statutes, and other statutes which generally do not apply to local governmental units probably would not apply to airport districts unless such districts are specifically added.

The reason that we added the qualifier "probably" is because, although the bill states that an airport district is a unit of local government, the fact is that four out of the seven members of the board of directors for the district that is to take over Mitchell Field are appointed by the governor. Consequently, one could argue that this district is not really a unit of local government and is instead a unit of state government. Dana Lach is

looking into other legal implications of the possibility that gubernatorial control over the district board could make the Mitchell Field district a unit of state government.

We have checked the statutory cross-references that apply to subchs. III, IV, and V of ch. 229 (baseball park districts, football stadium districts, and cultural arts districts) and added to them a cross-reference for airport districts if it seemed consistent with the treatment of these other districts. See, for example, the amendment of ss. 16.70 (14), 25.50 (1) (d), and 66.0301 (1) (a), and the creation of various statutes which are followed by ****NOTES. You may wish to review all of these cross-references and let us know if you'd like any changes made to the draft. Some cross-references apply only to some, but not all, of these special purpose districts. See, for example, ss. 13.94 (10), 18.03 (5s), 66.0603 (1m) (a) (intro). and 3m. to 3q. How would you like airport districts treated in these statutes?

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LRB-1209/P1dn
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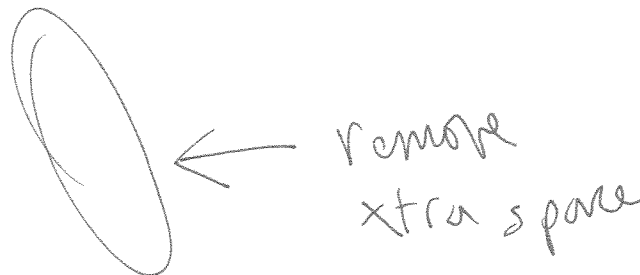
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MEMORANDUM

CLIENT-MATTER NUMBER
999100-0401

TO: Marc E. Shovers
Jeffery T. Kuesel
Joseph T. Kreye
Rick A. Champagne

FROM: Dana M. Lach

CC: Representative Jeff Stone
Peter W. Beitzel
Steve Baas
Barry Bateman

DATE: November 17, 2005

RE: Preliminary Draft of Airport District Bill

On November 8, 2005, a working group consisting of Representative Stone, Senator Plale, Representative Honadel, and representatives of the Milwaukee Metropolitan Association of Commerce, Midwest Express, Northwest Airlines and Foley & Lardner LLP met to discuss the draft bill creating a local airport district in Southeastern Wisconsin and authorizing the creation of additional local airport districts. This memorandum outlines the outcome of this working group meeting, concentrating on the group's responses to your comments and questions as noted in the draft bill and accompanying notes.

1. Control of Airport Prior to Receipt of Approval Certificate. The drafter's note raises a fundamental question as to who or which entity is in charge of General Mitchell International Airport during the period prior to the FAA approval date. The note correctly points out that the bill should not allow for either a void of authority, or a situation where there are two apparent bosses. Given that approval by the FAA (including the act by the FAA of naming the airport district as a "sponsor" authorized by subchapter I of chapter 471 of title 49 of the United States Code to submit requests for financial assistance from the FAA) would be crucial to the success of the airport district in operating General Mitchell International Airport (and Timmerman Airport, which would also transfer to the airport district) the working group has

proposed that control over the airport not transfer to the airport district until the FAA approval date. To accomplish this, s. 229.865 should be amended so that the transfer of General Mitchell and Timmerman Airports occur no later than the later of "(i) the first day of the 7th month beginning after the effective date ..., or (ii) if the FAA approval date has not occurred on or prior to the first day of the 7th month beginning after the effective date, the FAA approval date." If the FAA refuses to issue the district an approval certificate, control of the airports would not transfer to the district board. The district would have the ability to dissolve pursuant to s. 229.869, but would not be required to do so.

Notwithstanding the fact that the airport facilities will not be transferred until the FAA approval date, the airport district must be able to exercise certain organizational powers in order to work with the FAA and to develop the infrastructure necessary for a smooth transition of the operation of the airports from Milwaukee County to the airport district. We propose that s. 229.861 (5) be amended so that the powers of the airport district may only be exercised after the FAA approval date, except as necessary to allow the district board to organize and to work with Milwaukee County to achieve FAA approval (see s. xxx.03 (13) of the instructions).

2. Conflicts with the Aeronautics Statute. As currently drafted, s. 229.863 (15) authorizes the airport district to exercise all of the powers of a "municipality" under chapter 114. The drafter's note correctly points out that this results in conflicting provisions within the draft bill. To address this inconsistency, we propose that, instead of incorporating all of the powers of a municipality under chapter 114 in the draft bill, the following sections be amended to specifically include local airport districts: (i) s. 114.002 (definition of "municipality"); (ii) s. 114.105 (local regulation); (iii) s. 114.11 (local airports; interstate reciprocity); (iv) s. 114.12 (condemnation); (v) 114.13 (purchase of land for airports); (vi) s. 114.135 (airport protection); (vii) s. 114.136 (airport approach protection); (viii) s. 114.14 (equipment, control of airport, expense, regulations); (ix) 114.151 (union airports); (x) s. 114.32 (federal aid for airports); and (xi) s. 114.33 (initiation of airport project; sponsorship; land acquisition).

adding to
s. 114.002 →
applicability of
s. 114.20(16)
s. 114.31(6)

3. Contractual Authorizations. The drafter's note questions whether it is necessary to specifically authorize the airport district to (i) enter into certain exclusive and nonexclusive contracts (s. xxx.05 (8) of the instructions); (ii) contract with any department or agency of the United States... (s. xxx.05 (9) of the instructions); and (iii) enter into contracts and agreements, license, regulate and limit the number of and all forms of ground transportation (s. xxx.05 (10) of the instructions). Although s. 229.863 (4)(d) affords the district broad contracting authority, in order to avoid any ambiguity (and, with respect to the s. xxx.05 (9) of the instructions, to facilitate FAA approval) we propose that such specific authorizations be included in the draft bill.

4. Ordinances. The drafter's note suggests that the language in the instructions authorizing the airport district to adopt and enforce reasonable rules, regulations and ordinances and establish civil and criminal penalties may be overbroad, and the draft bill instead authorizes the airport authority to "set standards governing the use of, and the conduct within, its airport facilities in order to promote public safety and convenience and to maintain order." As the drafter's note observes, this provision is identical to the authority given to baseball and football stadium districts. However, to address the fact that airports have a heightened interest in public

FOLEY

safety at their facilities, we propose that the statute be amended to allow the airport district the authority to adopt and enforce reasonable rules, regulations and ordinances, but that penalties established by the district be limited to civil penalties (except as set forth in chapter 114).

pending 5. Governance. The drafter's note raises several questions relating to the governance of the airport district. The provisions of the draft bill relating to governance are being discussed by Representatives Stone and Honadel and Senator Plale, and additional instructions will be provided pending resolution.

6. Tax Exemptions. The draft bill currently provides for the appropriate tax exemptions relating to the airport district.

7. Additional Questions Raised in the Body of the Draft Bill. I have attached a mark-up of the draft bill, which includes the working group's responses to the questions that you raised therein.

I look forward to discussing this with you in more detail.

Attachment

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*working group
comments*

1 AN ACT *to amend* 16.70 (14), 19.42 (13) (a), 19.59 (1) (g) 1. a., 25.50 (1) (d), 32.02
2 (11), 59.69 (4g), 60.61 (2) (e), 62.23 (6) (am) 1. a., 66.0301 (1) (a), 66.0621 (1) (a),
3 66.0621 (1) (b), 66.1009 (intro.), 66.1009 (2), 71.26 (1) (bm), 71.26 (1m) (g), 71.36
4 (1m) and 71.45 (1t) (g); and *to create* 24.61 (2) (a) 10., 25.17 (3) (b) 13., 66.0603
5 (1m) (a) 3r., 66.0621 (6) (d), 70.11 (44), 71.05 (1) (c) 7., 77.25 (22), 77.54 (9a) (i),
6 78.01 (2) (g), 78.01 (2m) (h), 219.09 (1) (g) and subchapter VI of chapter 229
7 [precedes 229.860] of the statutes; **relating to:** creating a local airport district
8 and authorizing the creation of local airport districts.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.70 (14) of the statutes is amended to read:

2 16.70 (14) "State" does not include a district created under subch. II, III, IV, or
3 V, or VI of ch. 229.

4 **SECTION 2.** 19.42 (13) (a) of the statutes is amended to read:

5 19.42 (13) (a) All positions to which individuals are regularly appointed by the
6 governor, except the position of trustee of any private higher educational institution
7 receiving state appropriations and, the position of member of the district board of a
8 local professional baseball park district created under subch. III of ch. 229 and, the
9 position of member of the district board of a local cultural arts district created under
10 subch. V of ch. 229, and the position of member of the district board of a local airport
11 district created under subch. VI of ch. 229.

12 **SECTION 3.** 19.59 (1) (g) 1. a. of the statutes is amended to read:

13 19.59 (1) (g) 1. a. "District" means a local professional baseball park district
14 created under subch. III of ch. 229 or, a local professional football stadium district
15 created under subch. IV of ch. 229, or a local airport district created under subch. VI
16 of ch. 229.

17 **SECTION 4.** 24.61 (2) (a) 10. of the statutes is created to read:

18 24.61 (2) (a) 10. Bonds issued by a local airport district under subch. VI of ch.
19 229.

 ****NOTE: Is this consistent with your intent? See s. 24.61 (2) (a) 7. to 9. yes

20 **SECTION 5.** 25.17 (3) (b) 13. of the statutes is created to read:

21 25.17 (3) (b) 13. Bonds issued by a local airport district under subch. VI of ch.
22 229.

 ****NOTE: Is this consistent with your intent? See s. 25.17 (3) (b) 10. to 12. yes

23 **SECTION 6.** 25.50 (1) (d) of the statutes is amended to read:

1 66.0603 **(1m)** (a) 3r. Bonds issued by a local airport district created under
2 subch. VI of ch. 229.

 ****NOTE: Is this consistent with your intent? See s. 66.0603 (1m) (a) 3m. to 3q and
3t.

YES

3 **SECTION 13.** 66.0621 (1) (a) of the statutes is amended to read:

4 66.0621 **(1)** (a) "Municipality" means a city, village, town, county, commission
5 created by contract under s. 66.0301, public inland lake protection and rehabilitation
6 district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district
7 created under ss. 200.01 to 200.15 and 200.21 to 200.65, town sanitary district under
8 subch. IX of ch. 60, a local professional baseball park district created under subch.
9 III of ch. 229, a local professional football stadium district created under subch. IV
10 of ch. 229, a local cultural arts district created under subch. V of ch. 229, a local
11 airport district created under subch VI of ch. 229, or a municipal water district or
12 power district under ch. 198 and any other public or quasi-public corporation, officer,
13 board or other public body empowered to borrow money and issue obligations to
14 repay the money and obligations out of revenues. "Municipality" does not include the
15 state or a local exposition district created under subch. II of ch. 229.

16 **SECTION 14.** 66.0621 (1) (b) of the statutes is amended to read:

17 66.0621 **(1)** (b) "Public utility" means any revenue producing facility or
18 enterprise owned by a municipality and operated for a public purpose as defined in
19 s. 67.04 (1) (b) including garbage incinerators, toll bridges, swimming pools, tennis
20 courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting,
21 city halls, village halls, town halls, courthouses, jails, schools, cooperative
22 educational service agencies, hospitals, homes for the aged or indigent, child care
23 centers, as defined in s. 231.01 (3c), regional projects, waste collection and disposal

1 operations, sewerage systems, local professional baseball park facilities, airport
2 facilities, as defined in s. 229.860 (2), and any other necessary public works projects
3 undertaken by a municipality.

4 SECTION 15. 66.0621 (6) (d) of the statutes is created to read:

5 66.0621 (6) (d) Revenue bonds issued by a local airport district created under
6 subch. VI of ch. 229 are subject to the provisions in ss. 229.866 to 229.868.

7 SECTION 16. 66.1009 (intro.) of the statutes is amended to read:

8 **66.1009 Agreement to establish an airport affected area.** (intro.) Any
9 county, town, city or village may establish by written agreement with an airport, as
10 defined in s. 62.23 (6) (am) 1. a. or 229.860 (1):

11 SECTION 17. 66.1009 (2) of the statutes is amended to read:

12 66.1009 (2) Any requirement related to permitting land use in an airport
13 affected area, as defined in s. 62.23 (6) (am) 1. b., which does not conform to the zoning
14 plan or map under s. 59.69 (4g), 60.61 (2) (e) or 62.23 (6) (am) 2. A city, village, town
15 or county may enact such requirement by ordinance. A district, as defined in s.
16 229.860 (5), may not exercise any zoning authority outside of the district's
17 jurisdiction.

****NOTE: The amendment of this subsection is based on your instruction in s.
xxx.06 (2), on page 9 of your instructions, but doesn't it conflict with the authority that
you want the district to exercise under s. 114.136?

*Please delete as this is
inconsistent with intent.*

18 SECTION 18. 70.11 (44) of the statutes is created to read:

19 70.11 (44) Property of a local airport district created under Subch. VI of ch. 229.

20 SECTION 19. 71.05 (1) (c) 7. of the statutes is created to read:

21 71.05 (1) (c) 7. A local airport district created under Subch. VI of ch. 229.

22 SECTION 20. 71.26 (1) (bm) of the statutes is amended to read:

SECTION 22

1 not be used by the corporation for further tax benefit. For purposes of computing the
2 Wisconsin adjusted gross income of shareholders, tax-option items shall be reported
3 by the shareholders and those tax-option items, including capital gains and losses,
4 shall retain the character they would have if attributed to the corporation, including
5 their character as business income. In computing the tax liability of a shareholder,
6 no credit against gross tax that would be available to the tax-option corporation if
7 it were a nontax-option corporation may be claimed.

8 **SECTION 23.** 71.45 (1t) (g) of the statutes is amended to read:

9 71.45 (1t) (g) Those issued under s. 66.0621 by a local professional baseball
10 park district, a local professional football stadium district, ~~or~~ a local cultural arts
11 district, or a local airport district.

12 **SECTION 24.** 77.25 (22) of the statutes is created to read:

13 77.25 (22) From a local airport district created under Subch. VI of ch. 229.

14 **SECTION 25.** 77.54 (9a) (i) of the statutes is created to read:

15 77.54 (9a) (i) A local airport district created under Subch. VI of ch. 229.

16 **SECTION 26.** 78.01 (2) (g) of the statutes is created to read:

17 78.01 (2) (g) Gasoline sold to and used by a local airport district created under
18 Subch. VI of ch. 229.

19 **SECTION 27.** 78.01 (2m) (h) of the statutes is created to read:

20 78.01 (2m) (h) It is sold to and used by a local airport district created under
21 Subch. VI of ch. 229.

22 **SECTION 28.** 219.09 (1) (g) of the statutes is created to read:

23 219.09 (1) (g) Bonds issued by a local airport district under subch. VI of ch. 229.

***NOTE: Is this consistent with your intent? See s. 219.09 (1) (a) to (f).

43

1 **SECTION 29.** Subchapter VI of chapter 229 [precedes 229.860] of the statutes
2 is created to read:

3 **CHAPTER 229**

4 SUBCHAPTER VI

5 LOCAL AIRPORT DISTRICTS

6 **229.860 Definitions.** In this subchapter:

7 (1) "Airport" means any area of land or water which is used, or intended for use,
8 for the landing and take-off of aircraft, and any appurtenant areas which are used,
9 or intended for use, for airport buildings or other airport facilities or rights-of-way,
10 together with all airport buildings and facilities located thereon.

11 (2) "Airport facilities" means all district property, tangible or intangible, owned
12 in whole or in part, operated, or leased by a district that is principally related to
13 facilities used, available for use, or designed for use, for or by any of the following:

14 (a) The navigation, landing, or take-off of aircraft.

15 (b) The safety, security, storage, maintenance, servicing, or repair of aircraft.

16 (c) The security, comfort, and convenience of airport personnel and the users
17 of air transportation.

18 (d) Mail service.

19 (e) Military and national guard units.

20 (f) The safe and efficient operation and maintenance of an airport, and all
21 appurtenant areas used for airport facilities, and all appurtenant rights-of-way.

22 (3) "Bond" means any bond, note, or other obligation issued under s. 66.0621
23 by a district.

24 (4) "Chief elective ^{*electd?*} official" means the mayor of a city or, if the city is organized
25 under subch. I of ch. 64, the president of the council of that city, the village president

1 of a village, or the county executive of a county or, if the county does not have a county
2 executive, the chairperson of the county board of supervisors.

3 (5) "District" means a special purpose district created under this subchapter.

4 (6) "District board" means the governing board of a district.

5 (7) "Enabling resolution" means a resolution adopted by the governing body of
6 a local governmental unit to create a district.

7 (8) "FAA" means the federal aviation administration.

8 (9) "FAA approval date" means the earliest date on which all of the following
9 are in effect:

10 (a) The issuance, by the FAA to the district assuming jurisdiction of an airport,
11 of a certificate under 14 CFR 139 with respect to such airport.

12 (b) The concurrence by the FAA of the designation of the district as a sponsor
13 of such airport, including the FAA's approval of the assignment of existing grant
14 agreements to the district.

15 (10) "Local governmental unit" means any city, village, or county.

16 (11) "Political subdivision" means any city, village, town, or county.

17 (12) "PFC" means a passenger facility charge authorized under 49 USC 40117
18 and designated as a passenger facility charge under 14 CFR 158.

19 (13) "Sponsor" means the public agency authorized by subchapter I of chapter
20 471 of title 49 of the United States Code to submit requests for financial assistance
21 from the FAA.

****NOTE: This reference seems rather broad. Would you prefer to cross-reference
the definition in 49 USC 47102 (24)?

22 (14) "Transfer agreement" means a contract between a district and a local
23 governmental unit that provides the terms and conditions upon which airport

*YES. PLEASE NOTE THAT THE FAA WILL
BE REVIEWING THE DRAFT BILL AND
MAY HAVE
COMMENTS
ON THE TECHNICAL
DEFINITIONS.*

1 facilities and the operation of the facilities are transferred by a local governmental
2 unit to a district.

3 **229.861 Creation, organization, and administration.** (1) (a) There is
4 created, for each jurisdiction described under s. 229.862 (1), upon the appointment
5 and qualification of the members of its district board, a district that is a unit of local
6 government, that is a body corporate and politic, that is separate and distinct from,
7 and independent of, the state and the political subdivisions within its jurisdiction,
8 that has the powers under s. 229.863 and the name of which includes "Airport
9 District."

10 (b) One or more local governmental units may create a district that is a unit
11 of local government, that is a body corporate and politic, that is separate and distinct
12 from, and independent of, the state and the political subdivisions within its
13 jurisdiction, that has the powers under s. 229.863 and the name of which includes
14 "Airport District", if all of the following occur:

15 1. Each local governmental unit adopts an identical enabling resolution
16 declaring the need for, and establishing, a district and identifying the district's
17 jurisdiction, as described under s. 229.862 (2).

18 2. The enabling resolution adopted by each local governmental unit is signed
19 by that unit's chief elective official.

20 3. The signed enabling resolution is filed with the secretary of transportation.

21 4. The members of the district board are appointed and qualified.

22 (2) A district is governed by its district board.

23 (3) If the district is created under sub. (1) (a), the district board consists of the
24 members specified and appointed as follows:

1 (a) Four members of the district board shall be appointed by the governor to
2 4-year terms expiring on July 1, and 3 members of the district board shall be
3 appointed by the chief elective official of the county in which the airport described
4 under s. 229.862 (1) is located to 4-year terms expiring on July 1, except that:

5 1. One of the governor's initial appointments and one of the chief elective
6 official's initial appointments shall expire on July 1 of the 3rd year beginning after
7 the year of creation of a district.

8 2. One of the governor's initial appointments and one of the chief elective
9 official's initial appointments shall expire on July 1 of the 4th year beginning after
10 the year of creation of a district.

11 3. One of the governor's initial appointments and one of the chief elective
12 official's initial appointments shall expire on July 1 of the 5th year beginning after
13 the year of creation of a district.

14 4. One of the governor's initial appointments shall expire on July 1 of the 6th
15 year beginning after the year of creation of a district.

16 (b) 1. A member appointed by the governor may take his or her seat
17 immediately upon appointment and qualification. Three of the members appointed
18 by the governor shall reside within the jurisdiction of the regional planning
19 commission created under s. 66.0309 in which the airport is located, and one member
20 appointed by the governor may not reside within that area.

****NOTE: How do you want this subdivision modified if there is no RPC that encompasses the airport, i.e. What if Dane County some day meets the jurisdictional requirements, or what if SEWRPC dissolves?

21 2. A member appointed by the chief elective official may ~~not~~ take his or her seat
22 ~~until he or she is confirmed~~ by the county board.

immediately upon appointment and qualification. Any such appointment shall be in full force and effect

backed upon

If there IS NO RPC, the members shall reside in the county in which the largest airport is located (see 4(b) below).

1 (c) No member appointed under par. (a) may hold elective office or be an
2 employee of any governmental body. A member appointed under par. (a) may be
3 removed by the appointing authority for malfeasance or nonfeasance in office.

****NOTE: What do you want to cover by the term "governmental body"? Do you
mean a very broad term, as in s. 19.82 (1), or do you mean something narrower? What
do you mean by "malfeasance or nonfeasance"? You may wish to consider using the
process contained in ch. 17 of the statutes. This procedure is used in baseball and football
districts. See ss. 229.66 (3) and 229.842 (3) (c).

4 (d) Members of the district board may serve any number of terms, except that
5 no member of the district board may serve more than 2 consecutive terms. Vacancies
6 shall be filled by the appointing authority who appointed the person whose office is
7 vacant. A person appointed to fill a vacancy shall serve for the remainder of the
8 unexpired term to which he or she is appointed, unless removed at an earlier time,
9 and such service shall be considered one term for purposes of determining
10 consecutive terms of office.

11 (e) The term of a member of a district board expires or terminates upon the
12 earliest occurrence of one of the following:

13 1. The term for which the member was appointed expires.

14 2. A member becomes an elective public official or an employee of a
15 governmental body.

16 3. A member subject to a residency requirement establishes a nonqualifying
17 residence.

18 4. The member is removed by the appointing authority for malfeasance or
19 nonfeasance in office.

****NOTE: See previous note, re: "governing body" and "malfeasance or
nonfeasance."

20 (4) If the district is created under sub. (1) (b), the district board consists of the
21 members specified and appointed as follows:

*electd.
Officials
of cities,
towns,
villages,
counties
and the
State.
Chapter
17 may
be used.*

*See
above*

1 (a) Subject to pars. (c) and (d), 5 members of the district board shall be
2 appointed by the chief elective official of the creating local governmental unit to
3 4-year terms expiring on July 1, each of whom shall be a resident of the local
4 governmental unit.

5 (b) Subject to pars. (c) and (d), 2 members of the district board shall be
6 appointed by the chief elective official of the creating local governmental unit to
7 4-year terms expiring on July 1, neither of whom may be a resident of the county in
8 which the largest airport in the district is located in whole or in part.

....NOTE: Is this change OK? YES.

9 (c) 1. Two of the chief elective official's initial appointments shall expire on July
10 1 of the 3rd year beginning after the year of creation of a district.

11 2. Two of the chief elective official's initial appointments shall expire on July
12 1 of the 4th year beginning after the year of creation of a district.

13 3. Three of the chief elective official's initial appointments shall expire on July
14 1 of the 5th year beginning after the year of creation of a district.

15 (d) If a district is created by more than one local governmental unit, the
16 appointment of district board members shall be allocated between the participating
17 units based on an agreement entered into by all of the creating local governmental
18 units. The agreement shall be specified in the enabling resolutions.

....NOTE: I used "participating" and "creating" to account for the possibility that
a district's jurisdiction may expand, but that the "creating" units should decide, in the
enabling resolution, how the seats on the board should be allocated. Is this OK? YES.

19 (e) A member appointed under this subsection may not take his or her seat until
20 he or she is confirmed by the local government unit's governing body.

21 (f) Paragraphs (c) to (e) of sub. (3), as they apply to members appointed under
22 sub. (3), apply to members appointed under this subsection.

- 1 (5) (a) Upon the appointment and qualification of a majority of the members
2 of a district board, and prior to the FAA approval date, the district board may
3 organize and exercise the powers and duties of a district board under this subchapter.

Sec #1
in the
accompanying
memo and
xxx.03(13)
on the
instructions.

****NOTE: This subsection is drafted according to your instructions, but it seems to me that it may cause problems. The subsection seems to authorize the district board to exercise its powers, for example, to hire employees, issue bonds, collect fees, create a police force, etc., while the county is still the FAA-designated "sponsor" of the airport and in actual control of all airport functions. This seems to create ambiguity as to who is actually in control of Mitchell Field. It seems like both the district board and Milwaukee County (assuming it's the county that currently owns and operates the airport) have apparent authority to act, but that the county has the actual authority to act. Is this accurate? If so, how would you like to resolve this problem, which occurs in other parts of the draft as well. Would it make more sense to prohibit the district board from exercising any of its powers until the transfer agreement takes effect? Would it make sense to authorize the district board to exercise its powers, but only to the extent that the sponsor or Milwaukee County endorses district action?

- 4 (b) Officers and employees of the local governmental unit that created the
5 district, or that owns or operates an airport described in s. 229.862 (1), and members
6 of the district board, shall actively cooperate to obtain FAA recognition of the district
7 as the sponsor of the airport, and to obtain FAA approval of a transfer agreement.

****NOTE: I added the phrase "or that owns or operates an airport described in s. 229.862 (1)" to ensure that this subsection applies to Mitchell Field, which seems to be your intent. Is this OK? yes.

- 8 (6) (a) The district board shall elect from its membership a chairperson, a vice
9 chairperson, a secretary, and a treasurer, each of whom shall serve for one-year
10 terms, unless another term is specified in the bylaws.

- 11 (b) Four members of the district board constitute a quorum and the affirmative
12 vote of a majority of a quorum is necessary for the district board to take any action.

- 13 (7) The district board shall name the district, and the name shall include
14 "Airport District."

- 15 (8) The members of the district board shall be reimbursed for their actual and
16 necessary expenses incurred in the performance of their duties.

1 **229.862 Jurisdiction.** (1) With regard to a county that on the effective date
2 of this subsection [revisor inserts date], owns or operates an airport classified by
3 the FAA as a transport airport which provides scheduled air transportation services
4 and which had in excess of 2,000,000 scheduled passenger enplanements during the
5 preceding 12-month period, the initial jurisdiction of the district created under s.
6 229.861 (1) (a) is the territory of that airport.

****NOTE: Sub. (1) is based on the drafting instructions you provided, but the sample draft uses both the term "owns **or** operates" and "owned **and** operated." Which term reflects your intent? Also, is "territory of the airport" specific enough?

7 (2) The initial jurisdiction of a district created under s. 229.861 (1) (b) includes *to*
8 all or part of the territory of a local governmental unit, as specified in the enabling *define the*
9 resolution, except that no territory may be within the jurisdiction of more than one *territory*
10 district and no local governmental unit may create a district having jurisdiction over *by*
11 an airport owned or operated by another unit of government without the consent of *reference*
12 that other unit of government. *to the*
airport
areas in
the county

13 (3) The jurisdiction of any district shall expand beyond its initial jurisdiction *develop-*
14 to include any additional territory that is owned or leased by the district, and shall *ment*
15 contract from its initial jurisdiction to exclude any territory that is no longer owned *plan*
16 or leased by the district. The jurisdiction of a district may include territories that are *(s. 62.23,*
17 not contiguous or that are located in multiple units of government. *Policy*
comment)

18 **229.863 Powers of a district.** A district has all of the powers necessary or
19 convenient to carry out the purposes and provisions of this subchapter. In addition
20 to all other powers granted by this subchapter, a district may do all of the following:

- 21 (1) Adopt bylaws to govern the district's activities, subject to this subchapter.
22 (2) Sue and be sued in its own name, plead and be impleaded.
23 (3) Maintain an office.

1 (4) In connection with airport facilities:

2 (a) Acquire, construct, equip, maintain, improve, operate, and manage
3 property, interests, or easements in property.

4 (b) Acquire property by condemnation for the purpose of . . . using the
5 procedures under ch. 32.05.

****NOTE: Please supply a purpose for this paragraph. Also, is it necessary to list this power here? You also want a district to be able to exercise any power under ch. 114 (see sub. (17)), and s. 114.12 gives municipalities the right to acquire property by eminent domain for airport purposes.

6 (c) Grant concessions.

7 (d) Enter into contracts, subject to such standards as may be established by the
8 district board. The district board may award any such contract for any combination
9 or division of work it designates and may consider any factors in awarding a contract,
10 including price, time for completion of work, and qualifications and past performance
11 of a contractor. Except for professional services contracts, and subject to s. 66.0901,
12 all contracts for the construction, repair, remodeling, and improvement of any public
13 work, the estimated costs of which exceed \$100,000, shall be let by contract to the
14 lowest qualified and competent bidder. The district may reject any bid that is
15 submitted under this paragraph.

****NOTE: Does this par. meet your intent? I wasn't sure whether your instructions meant that no professional services contracts are subject to the lowest bid requirement, or that only such contracts that are estimated to cost under \$100,000 are subject to such requirements.

No services contracts are subject to the lowest bid requirement.

16 (e) Sell or otherwise dispose of unneeded or unwanted property.

17 (5) Employ personnel and fix and regulate their compensation; and provide,
18 either directly or subject to an agreement under s. 66.0301 as a participant in a
19 benefit plan of another governmental entity, any employee benefits, including an
20 employee pension plan.

*see
#2 in
the accompanying
memo.*

- 1 (6) Purchase insurance, establish and administer a plan of self-insurance or,
2 subject to an agreement with another governmental entity under s. 66.0301,
3 participate in a governmental plan of insurance or self-insurance.

****NOTE: Your drafting instructions for this subsection included a cross-reference to s. 229.47 -- transfer agreements related to a local exposition district. This didn't make any sense to me, so I didn't include the cross-reference. Is sub. (6) as drafted OK? If not, what was your intent w/ the x-ref to s. 229.47?

- 4 (7) Subject to ss. 229.866 and 229.867, issue bonds under s. 66.0621, and pledge
5 ~~revenues and grant liens~~ to secure the bonds.

****NOTE: What is your intent regarding the phrase "grant liens" to secure the bonds -- that phrase isn't used anywhere else in the statutes. Compare to ss. 229.68 (7) and (8), 229.824 (7) and (8), and 229.844 (7) and (8).

- 6 (8) Maintain funds and invest the funds in any investment that the district
7 board considers appropriate.
8 (9) Enter into interest rate exchange transactions or transactions to provide,
9 currently or prospectively, a maximum or minimum interest rate on all or a portion
10 of the indebtedness of the district and grant mortgages and other liens to secure the
11 indebtedness.

****NOTE: This subsection is based on your instructions, but is not used in subchs. III, IV, or V of ch. 229.

- 12 (10) Promote, advertise, and publicize the airport, airport facilities, and the
13 district, and provide information to persons with an interest in air transportation
14 and other district activities.

- 15 (11) Appear before rate-making and rule-making authorities to represent and
16 promote the interests of the district.

- 17 (12) Set standards governing the use of, and the conduct within, its airport
18 facilities in order to promote public safety and convenience and to maintain order.

- 19 (13) (a) The district shall have concurrent police power, with other authorized
20 peace officers, in its jurisdiction. Such concurrent police authority shall not be

1 construed to reduce or lessen the authority of the police power of the political
2 subdivision in which an airport may be located. All district police officers shall
3 cooperate with and be responsive to the local police authorities as they meet and
4 exercise their statutory responsibilities. All district police officers may arrest, with
5 or without warrant, any person on or in airport facilities within the district's
6 jurisdiction who the officers have reasonable grounds to believe has violated a state
7 law or any rule promulgated under this subchapter and deliver the person to any
8 court having jurisdiction over the violation and execute a complaint charging the
9 person with the violation. This subsection does not impair the duty of any other
10 peace officers within their jurisdictions to arrest and take before the proper court
11 persons found violating any state law on or in airport facilities within the district's
12 jurisdiction.

13 (b) The district may employ police for the airport facilities and chiefs to head
14 such police, or contract for police with a political subdivision, all of whom shall be
15 considered peace officers under s. 939.22 (22) under the supervision and control of
16 the district. The police officers shall meet the minimum standards established for
17 other police officers by the law enforcement standards board or a comparable agency.
18 The police shall preserve the peace in the jurisdiction of the district and enforce all
19 rules promulgated under this subchapter and all other laws. The district may,
20 subject to s. 66.0313, request of any other law enforcement agency assistance within
21 the district's jurisdiction, notwithstanding any other jurisdictional provision.

***NOTE: This subsection is based on s. 36.11 (2), which applies to University of Wisconsin System police. I made a number of changes in the language to make it more specific to airport facilities, rather than "institutions", which would be more appropriate for the UW system. Is this OK? Also, I did not include the suggested language authorizing the district to employ security personnel to provide routine patrol functions, or to contract for such services. It seems to me that the district already has this authority under subs. (5) and (4) (d).

*Please
specifically
authorize in order
to avoid any ambiguity.*

1 (14) Establish and collect rates and charges for the use of airport facilities or
2 for services provided by the district, including PFCs under the Federal Aviation Act
3 of 1958, as amended.

4 (15) Engage accountants, attorneys, consultants, and other professionals or
5 service providers.

6 (16) Enter into partnerships, joint ventures, common ownership, or other
7 arrangements with other persons to further the district's purposes.

8 (17) Exercise any power that a municipality, as defined in s. 114.002 (15), may
9 exercise under ch. 114.

****NOTE: This provision is drafted according to your instructions but, based on other instructions, i.e. s. xxx.06 (1), on page 9 of your instructions, I believe it's overbroad. For example, s. 114.15 authorizes a municipality to impose a tax to "carry out the provisions" of ch. 114 and it seems clear that your intent is for the district to have no authority to tax. You may wish to go through ch. 114 and let me know exactly which provisions you'd like to apply to a district.

10 (18) Enter into an agreement with a political subdivision to establish an airport
11 affected area under s. 66.1009.

12 (19) Act as a sponsor . . .

****NOTE: I did not include the material suggested for s. xxx.05 (20), the district power to "act as sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the FAA or any other agency of the United States or of this state, with respect to an airport owned by the district, and to perform the duties and responsibilities previously assumed by the municipality or municipalities which have transferred an airport to the district pursuant to s. XXX.09 by virtue of its acceptance of grants from the FAA or any other agency of the United States or this state."

I did not include this proposed subsection because I'm not sure what it means, and because it didn't make sense to me. Subsection 229.861 (5) authorizes the district board to exercise authority under this subchapter, which in itself may cause some problems if Milwaukee County still has the actual authority to run the airport, and this subsection would allow the district board to act as the sponsor before it actually receives FAA designation as the sponsor. If the FAA eventually designates the board as the sponsor, why would this subsection be needed at all?

13 (20) Take any necessary action to comply with the terms and conditions of a
14 FAA certificate, as described in 14 CFR 139.

See
#2 in
the
accompanying
memo.

Please
include as
this may
aid in
achieving
FAA
approval

****NOTE: This subsection has the same problem as several others, as described in the previous ****NOTE, in that it appears to set up dual authority with Milwaukee County. Also, after the airport is transferred, I don't think that this subsection would be needed because of the general authority the district board has, in s. 229.863 (intro.): "A district has all of the powers necessary or convenient to carry out the purposes and provisions of this subchapter." Wouldn't this authority be sufficient?

1 (21) Protect the aerial approaches to an airport . . .

****NOTE: I did not include this instruction, from s. xxx.05 (22), page 9 of the instructions, because it is redundant. It basically copies s. 114.136 and, under sub. (17), the district is already authorized to exercise the powers that a municipality may exercise under ch. 114.

2 **229.864 Powers granted to local governmental units; limitations on**

3 **powers. (1)** In addition to any powers that it may otherwise have, a local
4 governmental unit may do any of the following:

5 (a) Make grants or loans to a district upon terms that the local governmental
6 unit considers appropriate.

7 (b) Expend public funds to subsidize a district.

8 (c) Borrow money under ss. 67.04 and 67.12 (12) for airport facilities or to fund
9 grants, loans, or subsidies to a district.

10 (d) Lease or transfer property to a district upon terms that the local
11 governmental unit considers appropriate.

12 (2) Notwithstanding ss. 59.69, 60.61, 60.62, 61.35, and 62.23, a political
13 subdivision may not enact or enforce a zoning ordinance within the jurisdiction of a
14 district.

15 **229.865 Transfer agreements. (1)** (a) In the case of a district created under
16 s. 229.861 (1) (a), and subject to pars. (b) to (d), the county shall transfer and assign
17 to the district all of the county's right, title, and interest in an airport and airport
18 facilities that are owned or operated by the county on the effective date of this
19 paragraph [revisor inserts date], on the soonest practicable date agreed to by the

See
#2 in
accompanying
memo.

****NOTE: Par. (d) is drafted according to your instructions contained on pages 10 and 11 of the draft you submitted, but it seems to allow the district and the county to reach any agreement that they want on any terms that they want, and may even remove the requirement that the transfer occur no later than the first day of the 7th month beginning after the effective date of the bill. Is par. (d) consistent with your intent?

1 **(2)** A local governmental unit may enter into a transfer agreement with a
2 district created under s. 229.861 (1) (b) to provide the terms and conditions upon
3 which the local governmental unit transfers an airport and airport facilities to the
4 district. A transfer may take the form of a sale, lease, or other conveyance and may
5 be with or without financial consideration. A transfer agreement shall require the
6 district to accept an assignment of any collective bargaining agreement in force at
7 the time of the transfer with respect to persons employed by the local governmental
8 unit at a transferred airport or airport facilities. A transfer agreement shall require
9 the district to accept an assignment of all contracts with other persons, with respect
10 to transferred airport facilities, that are in force at the time of transfer.

****NOTE: Does this subsection meet our intent? Compare to s. 229.47 references
to subch. IV of ch. 111, relating to "assume the functions of the employer . . ." Do you want
district employees to have collective bargaining rights under state statutes? **YES.**

11 **(3)** A local governmental unit may transfer an airport and airport facilities, and
12 any related assets, property, licenses, contracts, and revenues to a district created
13 by another local governmental body or to a district created under s. 229.861 (1) (a)
14 upon the terms and conditions contained in a transfer agreement that is agreed to
15 by the parties.

16 **229.866 Issuance of bonds.** **(1)** A district may issue bonds under s. 66.0621
17 for any corporate purpose related to airport facilities, the operation of an airport, or
18 the impact of an airport on surrounding areas and properties. The district may issue
19 bonds to fund, refund, advance refund, or purchase any outstanding bond of the